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**In the Matter of )  
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 MUR 6084 ) **CASE CLOSURE UNDER THE**  
 JOHN N. KENNEDY ) **ENFORCEMENT PRIORITY SYSTEM**  
 JOHN KENNEDY FOR US SENATE, INC. )  
 AND KEITH A. DAVIS. AS TREASURER )**

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**Under the Enforcement Priority System, matters that are low-rated**

are forwarded to the Commission with a recommendation for dismissal. The Commission has determined that pursuing low-rated matters compared to other higher rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss these cases. The Office of General Counsel scored MUR 6084 as a low-rated matter

The complainant in this matter, Jay Howser, alleges that then-senatorial candidate John N Kennedy and his campaign committee, John Kennedy for US Senate Inc and Keith A. Davis, in his official capacity as treasurer ("the Respondents"), aired a campaign advertisement on multiple television stations, which failed to conclude with a written authorization by Mr. Kennedy stating that he had approved the message, in violation of 2 U S C. § 441d(d)(1)(B)(ii) and 11 C.F.R § 110 11(c)(3)(iii) The complainant acknowledges, however, that a "written disclaimer" appeared on-screen at the beginning of the advertisements <sup>1</sup>

<sup>1</sup> According to the complainant, the advertisement may be accessed at <http://www.youtube.com/watch?v=I37Fre-UbI>

1            Respondents' reply acknowledges that the Kennedy campaign aired an advertisement,  
2    entitled "Museum," which began with a written statement that Mr Kennedy authorized the  
3    message. Within 24 hours, however, according to respondents, they realized that  
4    Mr Kennedy's written authorization should have been placed at the conclusion of the  
5    advertisement, and they made the necessary correction Respondents also assert that even the  
6    defective advertisement included a clearly readable written statement acknowledging that  
7    Mr Kennedy had authorized the message, along with a similar oral message and a full-screen  
8    image of Mr Kennedy Citing other MURs where the Commission voted to dismiss matters  
9    where written candidate authorizations were included in their political advertisements, albeit  
10   not at the conclusion of the advertisement, respondents request that this matter be dismissed

11           This Office was able to access what appears to be the initial advertisement on  
12   YouTube com, and confirmed that the message included a full-screen image of Mr Kennedy,  
13   along with his oral and written approval. Given that this identifying information was  
14   provided, it does not seem that the public would have been misled as to who paid for and  
15   approved the advertisement Therefore, in furtherance of the Commission's priorities and  
16   resources, relative to other matters pending on the Enforcement docket, the Office of General  
17   Counsel believes that the Commission should exercise its prosecutorial discretion and dismiss  
18   the matter. See *Heckler v Chaney*, 470 U.S. 821 (1985).

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**RECOMMENDATIONS**

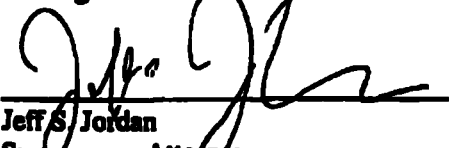
The Office of General Counsel recommends that the Commission dismiss  
MUR 6084 as to John N Kennedy, John Kennedy for US Senate, Inc , and Keith A Davis, in  
his official capacity as treasurer, close the file, and approve the appropriate letters.

Thomasenia P. Duncan  
General Counsel

8/5/09  
Date

BY

  
Gregory R. Baker  
Special Counsel  
Complaints Examination  
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